

# Notice of Allowability

Application No.

10/795,783

Examiner

H. T. Le

Applicant(s)

COLHOUN ET AL.

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed October 16, 2007.
2. ☒ The allowed claim(s) is/are 26-40, 54-61 and 95-115.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
H. (Holly) T. Le  
Primary Examiner  
Art Unit: 1794

### **REASONS FOR ALLOWANCE**

1. The following is an examiner's statement of reasons for allowance: None of the prior art references of record, singly or combined, teach or suggest a method for making a container by extrusion from polyester particles having the specific degree of crystallinity and intrinsic viscosity as claimed in which the intrinsic viscosity gradient from center to surface of the polyester particles is kept low by not subjecting the polyester particles to solid-state polymerization prior to the step of feeding the particles into an extrusion zone.
2. The most pertinent reference is the US patent 5,442,036 ("US '036") which teaches polyester particles for extrusion in which the molecular weight gradient from center to surface of the particles is kept low. However, the polyester particles have been subject to solid-state polymerization prior to the step of feeding the particles into an extrusion zone (see US'036, col. 2, lines 13-54 and col. 5, lines 47-52). In addition, the MW gradient is kept low during the solid-state polymerization by starting with polyester particles having a core molecular weight higher than that of conventional polyester particles.
3. The US patent 6,200,659 fails to teach polyester particles having the crystallinity degree as claimed; and the US'659 patent fails to recognize the significant loss in viscosity of the polyester particles in solid-state polymerization by avoiding such polymerization before extrusion. The EP 0661325 (equivalent to US patent 5,573,820); the US publication 2002/0128427 fail to teach the center to surface viscosity-gradient of the polyester particles or recognize potential loss in viscosity of polyester during solid-

Art Unit: 1794

state polymerization. The JP patent 05-070567 teaches polyester particles formed by solid-state polymerization with an increase in intrinsic viscosity of at least 0.15, something the claimed invention tries to prevent. The only common feature between the claimed invention and US 6,066,713; EP 0774477 (equivalent to US 5,686,553); and EP patent 0492999 (equivalent to US patent 5,239,045) is copolyester particles for injection molding and nothing else.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. Thi Le/  
H. (Holly) T. Le  
Primary Examiner  
Art Unit 1794

December 23, 2007